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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN JOSE DIVISION

\*E-FILED - 11/21/05\*

13 UNITED STATES OF AMERICA,	)	No. CR 05-00445-RMW
14	)	
15 Plaintiff,	)	STIPULATION REGARDING
16 v.	)	EXCLUDABLE TIME AND
17 DAVID M. FISH,	)	ORDER
18 aka x000x,	)	
19 Defendant.	)	

20 It is hereby stipulated and agreed between defendant David M. Fish, and his counsel Manuel  
21 Campos, and the United States as follows:

22 This matter was set for a status conference on November 14, 2005 at 9:00 a.m. In this  
23 copyright infringement case, the defense needs more time to prepare, review discovery  
24 previously provided, including a substantial amount of digital evidence, and research legal and  
25 sentencing issues. On July 21, 2005, defendant Fish was arraigned on a nine-count indictment,  
26 charging as follows: Count One: Conspiracy to Commit Criminal Copyright Infringement,  
27 Infringement By Electronic Means, Infringement By Distributing A Commercial Distribution  
28 Work, Traffic in Devices to Circumvent a Technological Measure that Protects a Copyright

STIPULATION REGARDING EXCLUDABLE TIME AND ORDER  
CR 05-00445-RMW

1 Work, Circumvent a Technological Measure that Protects a Copyright Work, and Use  
2 Audiovisual Recording Devices to Make Unauthorized Copies Of Audiovisual Works, in  
3 violation of 18 U.S.C. § 371; Count Two: Circumventing a Technological Measure Protecting a  
4 Copyright Work and Aiding and Abetting, in violation of 17 U.S.C. §§ 1201(a)(1)(A),  
5 1204(a)(1), and 18 U.S.C. § 2; Counts Three, Four and Five: Trafficking in Technology  
6 Primarily Designed to Circumvent Technological Measures Protecting A Right of a Copyright  
7 Owner and Aiding and Abetting, in violation of 17 U.S.C. §§ 1201(a)(2)(A), and 1204(a)(1) and  
8 18 U.S.C. § 2; Counts Six, Seven, Eight and Nine: Criminal Copyright Infringement By  
9 Electronic Means and Aiding and Abetting, in violation of 17 U.S.C. § 506(a)(1)(B), 18 U.S.C.  
10 § 2319(c)(1) and 18 U.S.C. § 2; and an allegation of Criminal Forfeiture and Destruction, in  
11 violation of 17 U.S.C. §§ 506(b) and 509(a).

12 On or about October 17, 2005, defense counsel Manuel Campos was substituted as counsel  
13 for defendant Fish. Mr. Campos recently received the discovery from prior defense counsel and  
14 needs more time to review it. The discovery includes a substantial amount of digital evidence.  
15 Under these circumstances, the parties agree that further time is necessary for Mr. Campos to  
16 complete his review of the discovery and review legal issues with his client.

17 The parties stipulate and move the Court to exclude time under the Speedy Trial Act from the  
18 November 14, 2005, until December 12, 2005, because the parties believe that the ends of justice  
19 served by the granting of such a continuance outweigh the best interests of the public and the  
20 defendant in a speedy trial, particularly since reasonable time is needed for the defense to  
21 prepare for pretrial and trial matters, pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(ii).  
22 The parties further stipulate that time may be excluded for reasonable time for defense  
23 preparation, since the failure to exclude time would deny counsel for the defendant reasonable  
24 time necessary for effective preparation, taking into account the exercise of due diligence,

25 // // //

26 // // //

1 pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(iv). Complicating a review of the  
2 discovery and issues in this case is the fact that the defendant resides on the east coast. Further  
3 time will allow for necessary discussions on the issues in this case.

4 So stipulated.

5 Dated: November 9, 2005

KEVIN V. RYAN  
United States Attorney

/s/

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8 MARK L. KROTOSKI  
Assistant United States Attorney

9 So stipulated.

10 Dated: November 9, 2005

/s/

11 MANUEL CAMPOS  
12 Attorney for Defendant Fish  
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**ORDER**

Based upon the foregoing Stipulation and good cause appearing therefor,

**IT IS HEREBY ORDERED** that the status conference set for November 14, 2005 at 9:00 a.m. for defendant Fish shall be continued to December 12, 2005 at 9:00 a.m.

**IT IS FURTHER ORDERED** that the time between November 14, 2005 and December 12, 2005 shall be excluded from the computation period within which the trial must commence, for the reasons and based upon the statutory provisions set forth by the parties in this Stipulation, including that time is needed for effective defense preparation.. The Court finds that the ends of justice outweigh the interests of the public and the parties in a speedier trial under 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(ii) (complexity), 3161(h)(8)(B)(iv) (reasonable time necessary for effective preparation taking into account the exercise of due diligence).

DATED: November 21, 2005

/S/ RONALD M. WHYTE

RONALD M. WHYTE  
United States District Judge